ings were instituted. Both the mortgagee and the lessor claimed the fund in court. *Held*, that the mortgagee prevails. *In re Dublin Corporation*, [1912] 1 I. R. 498.

That land taken for a public use should remain encumbered by mortgages, liens, and similar rights would obviously defeat the purpose of eminent domain proceedings. Therefore, when the owners of such rights are properly made parties, the land is taken free and clear. *Moore* v. *Mayor, etc. of New York*, 8 N. Y. 110. See 2 LEWIS, EMINENT DOMAIN, 3 ed., § 896. But that such rights should be wholly extinguished is neither necessary to the purpose of the proceedings nor expedient. Accordingly, a wife's inchoate right of dower is transferred to the fund paid as compensation. *Wheeler* v. *Kirtland*, 27 N. J. Eq. 534; *Matter of Brooklyn Bridge*, 75 Hun (N. Y.) 558, 27 N. Y. Supp. 597. Tax liens survive against the fund. *Buchanan* v. *Kansas City*, 208 Mo. 674, 106 S. W. 531; *In re Sleeper*, 62 N. J. Eq. 67, 49 Atl. 549. And the same is true of those of judgment creditors. *Gimbel* v. *Stolte*, 59 Ind. 446. And it would seem that it should be true as to those of materialmen and vendors; in short, as to all real rights existing against the property. It is peculiarly inadvisable to weaken the security of mortgages. *South Park Commissioners* v. *Todd*, 112 Ill. 379; *Ex parte Lambton*, 3 Ch. D. 36. The same rules would apply to a landlord's lien; and even where the right to distrain confers only a right to acquire by seizure a lien superior to a prior mortgage, it is arguable that such a right should attach to the fund representing the tenant's goods. But the right to enter is not a lien on the term for back rent. It merely gives the lessor the right to end the term and prevent the accrual of future rent; and since the term is otherwise ended, it seems clear that he should have no lien on the fund. *Ex parte Carey*, 10 L. T. O. S. 37.

EQUITY — JURISDICTION — BILL TO ENJOIN ENFORCEMENT OF PENAL ORDINANCE. — The plaintiffs filed a bill to enjoin the enforcement of a penal ordinance of the defendant city, requiring insurance agents to pay a license before transacting business. *Held*, that the injunction will be denied. *City of Bisbee* v. *Arizona Ins. Agency*, 127 Pac. 722 (Ariz.).

Some courts hold that equity has no jurisdiction to enjoin criminal or penal proceedings. *Suess* v. *Noble*, 31 Fed. 855; *Old Dominion Telegraph Co.* v. *Powers*, 140 Ala. 220, 37 So. 195. Most courts, however, make exceptions in cases of multiplicity of suits or of irreparable injury to property. *Wilkie* v. *City of Chicago*, 188 Ill. 444, 58 N. E. 1004; *Mayor, etc. of York* v. *Pilkington*, 2 Atk. 302; *Dobbins* v. *Los Angeles*, 195 U. S. 223, 25 Sup. Ct. 18. But in applying these exceptions the authorities are in conflict. Courts are more ready to enjoin penal than criminal proceedings. See *Southern Express Co.* v. *Mayor, etc. of Ensley*, 116 Fed. 756, 759; *Sylvester Coal Co.* v. *City of St. Louis*, 130 Mo. 323, 330, 32 S. W. 649, 651. Yet substantially the question involved is the same, and no distinction should be made. See *Shinkle* v. *City of Covington*, 83 Ky. 420, 429; *In re Sawyer*, 124 U. S. 200, 211, 8 Sup. Ct. 482, 488. Moreover, equity has discretion to refuse injunction even in cases of multiplicity. So where the question is one of fact which should go to a jury equity may refuse to interfere. *Davis* v. *American Society for Prevention of Cruelty to Animals*, 75 N. Y. 362. But when as in the principal case the question is one of law, equity should exercise jurisdiction. *City of Chicago* v. *Collins*, 175 Ill. 445, 51 N. E. 907. The authorities are also in conflict as to what constitutes irreparable injury to property. Some courts refuse to enjoin where a mere right to do business is affected. *Yellowstone Kit* v. *Wood*, 43 S. W. 1068 (Tex.). Other courts, however, correctly recognize that the right to do business is substantially a property right. *Greenwich Ins. Co.* v. *Carroll*, 125 Fed. 121; *City of Hutchinson* v. *Beckham*, 118 Fed. 399. On either theory, therefore, an injunction should have been granted in the principal case.

EXECUTORS AND ADMINISTRATORS — ADMINISTRATION — EFFECT OF APPOINTMENT OF DEBTOR AS EXECUTOR ON INCOMPLETE RELEASE OF DEBT. — The testator appointed the defendant, who owed him a sum of money, as his executor. In his account book the testator had made an entry which he intended as a release of the debt. *Held*, that the appointment of the debtor as executor perfects the release. *In re Pink*, [1912] 2 Ch. 528. See NOTES, p. 445.

INFANTS — CONTRACTS AND CONVEYANCES — LIABILITY ON EXECUTORY CONTRACT FOR NECESSARIES. — The defendant, a nineteen-year-old billiard expert, agreed to accompany the plaintiff, a noted champion, on an exhibition tour. The defendant promised to pay all the expenses and probably expected instruction in the game. The defendant repudiated the contract. *Held*, that the plaintiff may recover. *Roberts* v. *Gray*, 57 Sol. J. 143 (Eng., Ct. App., Dec., 1912).

In this country instruction of various sorts has been considered necessary to an infant. *Glover & Co.* v. *Adm'r of Ott*, 1 McCord (S. C.) 572. See *Wallin* v. *Highland Park Co.*, 127 Ia. 131, 132, 102 N. W. 839. But in other cases various sorts of instruction have been found unwarranted by the infant's circumstances. *Middlebury College* v. *Chandler*, 16 Vt. 683; *International Text Book Co.* v. *Connelly*, 206 N. Y. 188, 99 N. E. 722. English courts are more liberal than ours in respect to necessaries. *Clyde Cycle Co.* v. *Hargreaves*, 78 L. T. R. 296; *Pyne* v. *Wood*, 145 Mass. 558, 14 N. E. 775. Consequently the principal case may be justified in holding instruction in billiards necessary. But an infant's liability for necessaries is properly quasi-contractual. *Locke* v. *Smith*, 41 N. H. 346; *International Text Book Co.* v. *Alberton*, 30 Oh. Circ. Ct. 352. See 7 HARV. L. REV. 72–73. Consequently, if no value has been given, as in an executory contract, there is no basis for recovery. *Mauldin* v. *Southern Shorthand, etc. University*, 3 Ga. App. 800, 60 S. E. 358; *Gregory* v. *Lee*, 64 Conn. 407, 30 Atl. 53. But see *International Text Book Co.* v. *Connelly*, 206 N. Y. 188, 194, 102 N. E. 722, 725. Some courts, indeed, would allow an action on the contract, limiting however the amount of recovery to the reasonable value of the part performed. *Askey* v. *Williams*, 74 Tex. 294, 11 S. W. 1101. See *Cooper* v. *State*, 37 Ark. 421, 425. But such cases do not warrant recovery on a contract still unexecuted. *Peck* v. *Cain*, 27 Tex. Civ. App. 38, 63 S. W. 177. In England an infant is bound by an executory contract to serve another, if the contract would tend to benefit him. *Clements* v. *London & N. W. Ry. Co.*, [1894] 2 Q. B. 482. The principal case applies this doctrine to a contract for necessaries. But it is not so essential for the protection of an infant that he be forced to keep his executory contracts for future necessaries, as it is in the case of contracts of service. The American rule therefore seems preferable.

INJUNCTIONS — RESTRAINING PUBLIC OFFICERS AT SUIT OF TAXPAYER. — At the suit of a taxpayer, the Secretary of State was enjoined from submitting to popular vote a proposed constitutional amendment which lacked the required number of votes in the legislature. *Held*, that the injunction was proper. *Crawford* v. *Gilchrist*, 59 So. 963 (Fla.).

The jurisdiction of equity to protect a taxpayer against the misappropriation of public funds is generally conceded. *Crampton* v. *Zabriskie*, 101 U. S. 601; *City of Chicago* v. *Nichols*, 177 Ill. 97, 52 N. E. 359. The doctrine of the relief seems to be to prevent the breach of a public trust. See *Adams* v. *Brennan*, 177 Ill. 194, 198, 52 N. E. 314, 316; *City of New London* v. *Brainard*, 22 Conn. 552, 556. Public policy, on the other hand, and the theory of the distribution of governmental powers obviously require extreme caution in interfering with a public election or enjoining a state official. *Walton* v. *Develing*, 61 Ill. 201; *Mississippi* v. *Johnson*, 4 Wall. (U. S.) 475. On these